

REMARKS

The Office has required restriction in the present application as follows:

Group I: Claims 1-16, drawn to a denture adhesive; and

Group II: Claims 17 and 18, drawn to a method of making a denture adhesive.

Applicants elect, with traverse, Group I, Claims 1-16.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples, to support any conclusion in regard to patentable distinctions (M.P.E.P. § 803). Applicants respectfully traverse the restriction requirement on the grounds that the Examiner has not carried the burden of providing sufficient reasons and/or examples to support any conclusion that the claims of the restricted groups are patentably distinct.

The Examiner has categorized the relationships between Groups I and II as product and process of use. Patentable distinctness may be shown if either or both of the following can be shown: (A) that the process of using the product as claimed can be practice with another materially different product or (B) that the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). The Examiner asserts that the product as claimed can be used in a materially different process, such as not involving several contacting steps of calcium sulfate with the cellulose or a process not requiring mineral oil.

However, the Examiner's assertion does not meet the requirements under § 806.05(h), because a mere generalization concerning the use of a different process is not evidence that the claimed denture adhesive can be used in a materially different process. Applicants have found that the present denture adhesive has excellent cleaning properties and "keeps adhesiveness for a long period of time while retaining the adhesiveness equivalent to the

conventional adhesion type denture adhesives" (specification, page 4, lines 23-25).

Therefore, the Examiner's reasoning is merely a restatement of the Examiner's conclusion that the two groups are patentably distinct, which is believed to be improper.

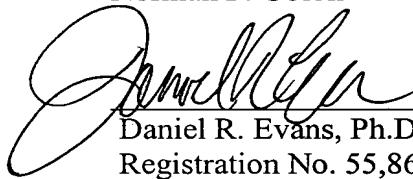
Accordingly, for at least the reasons presented above, Applicants submit that the Examiner has failed to meet the burden necessary to sustain the restriction requirement. Withdrawal of the requirement is respectfully requested.

Applicant submits this application is now in condition for examination on the merits and early notification of such action is earnestly solicited.

Respectfully submitted,

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